

Senate File 2167 - Introduced

SENATE FILE 2167

BY SCHNEIDER

A BILL FOR

1 An Act relating to regulation and supervision of executive
2 branch administrative units that regulate a profession.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 2A.4, Code 2016, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 13. *a.* Reviewing of legislation creating
4 or modifying an executive branch administrative unit that
5 regulates a profession to evaluate all of the following:

6 (1) Whether the legislation enacts a least restrictive
7 regulatory approach necessary to protect consumers.

8 (2) Whether the legislation impacts opportunities for
9 workers, consumer costs or choices, market competition, costs
10 to the state, or unemployment.

11 (3) How the legislation compares to similar legislation in
12 other states.

13 *b.* The legislative services agency shall submit an
14 annual report by January 1 to the general assembly regarding
15 legislation enacted during the preceding legislative session
16 that created or modified an executive branch administrative
17 unit that regulates a profession. In accordance with
18 subsection 1, the report submitted shall not contain any public
19 policy recommendations.

20 *c.* Beginning January 1, 2018, the legislative services
21 agency shall review the administrative rules of each executive
22 branch administrative unit that regulates a profession on a
23 five-year rotation schedule to evaluate compliance by those
24 administrative units with the goals set forth in section 7E.1,
25 subsection 4. Beginning January 1, 2019, the legislative
26 services agency shall submit an annual report to the general
27 assembly regarding its evaluation. In accordance with
28 subsection 1, the report submitted shall not contain any public
29 policy recommendations.

30 Sec. 2. Section 7E.1, Code 2016, is amended by adding the
31 following new subsection:

32 NEW SUBSECTION. 4. *Policy of state regarding regulation*
33 *of professions.* In maintaining its responsibility for
34 regulating executive branch administrative units that regulate
35 a profession, the state shall:

1 *a.* Pursue policies that increase opportunities, promote
2 competition, and encourage innovation.

3 *b.* Adopt the least restrictive regulations necessary to
4 protect consumers.

5 *c.* Enforce laws or rules relating to the regulation of
6 professions against a person only to the extent the person is
7 engaged in the practice explicitly regulated by the laws or
8 rules governing a particular administrative unit.

9 *d.* Provide active supervision of executive branch
10 administrative units that regulate a profession to ensure that
11 those administrative units and their employees avoid liability
12 under federal antitrust laws.

13 Sec. 3. Section 13.2, subsection 1, Code 2016, is amended by
14 adding the following new paragraph:

15 NEW PARAGRAPH. *g.* (1) Engage in active supervision of
16 all executive branch administrative units that regulate a
17 profession. The attorney general shall ensure through active
18 supervision that all executive branch administrative units that
19 regulate a profession pursue a least restrictive regulatory
20 approach.

21 (2) The regulatory approach used by an executive branch
22 administrative unit shall be evaluated based on the following
23 list of regulatory activities ranked from least to most
24 restrictive:

25 (a) Market competition regulations.

26 (b) Private certification requirements.

27 (c) A special private civil cause of action to remedy
28 consumer harm.

29 (d) Deceptive trade practices regulations.

30 (e) Regulation of the process of providing the specific
31 goods or services to consumers.

32 (f) Inspection requirements.

33 (g) Bonding or insurance requirements.

34 (h) Registration requirements.

35 (i) Government certification requirements.

1 (j) Professional licensure requirements.

2 (3) (a) For purposes of this paragraph "q", "active
3 supervision" means approval, modification, or rejection of any
4 of the following actions proposed to be taken by an executive
5 branch administrative unit that regulates a profession:

6 (i) Any disciplinary action against a person authorized to
7 practice the profession by the administrative unit.

8 (ii) Adoption of a new, or an amendment to an existing, rule
9 or policy.

10 (b) "Active supervision" includes conducting investigations
11 and cooperating with the legislative services agency to perform
12 the duties described in section 2A.4, subsection 13, paragraph
13 "c", to determine the least restrictive regulatory approaches
14 for each executive branch administrative unit that regulates
15 a profession and ways to minimize exposure to antitrust
16 challenges. "Active supervision" does not include provision of
17 general counsel or representation in a court, hearing, or other
18 tribunal action involving the state, any subdivision of the
19 state, or any state officer in the officer's official capacity.

20 EXPLANATION

21 The inclusion of this explanation does not constitute agreement with
22 the explanation's substance by the members of the general assembly.

23 This bill establishes a state policy for the regulation
24 of executive branch administrative units that regulate a
25 profession. The bill requires the legislative services agency
26 to review all legislation that creates or modifies executive
27 branch administrative units that regulate a profession and
28 instructs the agency to conduct a review of the administrative
29 rules of such administrative units and submit an annual
30 report to the general assembly. The bill requires the
31 attorney general to actively supervise all executive branch
32 administrative units that regulate a profession. The bill
33 provides guidance to the attorney general in how to provide
34 "active supervision" and establishes a hierarchy of regulatory
35 activities to determine a "least restrictive regulatory

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1 approach".